

(2) The date of issuance and termination, encompassing a period of not more than 3 years; and

(3) The gross tons of the largest tank vessel and gross tons of the largest vessel other than a tank vessel eligible for coverage by that Master Certificate. (The Master Certificate does not identify the name of each vessel covered by the Certificate.)

(d) Each additional vessel which does not exceed the respective tonnages indicated on the Master Certificate and which is eligible for coverage by a Master Certificate is automatically covered by that Master Certificate. Before acquiring a vessel, by any means, including conversion of an existing vessel, that would have the effect of increasing the certificant's required applicable amount of financial responsibility (above that provided for issuance of the existing Master Certificate), the certificant must submit to the Director, NPFC, the following:

(1) Evidence of increased financial responsibility.

(2) A new certification fee.

(3) Either a new Application or a letter amending the existing Application to reflect the new gross tonnage which is to be indicated on a new Master Certificate.

(e) A person to whom a Master Certificate has been issued must submit to the Director, NPFC, every six months beginning the month after the month in which the Master Certificate is issued, a report indicating the name, previous name, type, and gross tonnage of each vessel covered by the Master Certificate during the preceding six-month reporting period and indicating which vessels, if any, are tank vessels.

§ 138.120 Certificates, denial or revocation.

(a) The Director, NPFC, may deny a Certificate when an applicant—

(1) Willfully or knowingly makes a false statement in connection with an Application or other submission or filing under this subpart for an initial or renewal Certificate;

(2) Fails to establish acceptable evidence of financial responsibility as required by this subpart;

(3) Fails to pay the required Application or certification fees;

(4) Fails to comply with or respond to lawful inquiries, regulations, or orders of the Coast Guard pertaining to the activities subject to this subpart; or

(5) Fails to timely file with the Director, NPFC, required statements, data, notifications, or affidavits.

(b) The Director, NPFC, may revoke a Certificate when a certificant—

(1) Willfully or knowingly makes a false statement in connection with an Application for an initial or a renewal Certificate, or in connection with any other filing required by this subpart;

(2) Fails to comply with or respond to lawful inquiries, regulations, or orders of the Coast Guard pertaining to the activities subject to this subpart; or

(3) Fails to timely file with the Director, NPFC, required statements, data, notifications, or affidavits.

(c) A Certificate is immediately invalid, and considered revoked, without prior notice, when the certificant—

(1) Fails to maintain acceptable evidence of financial responsibility as required by this subpart;

(2) Is no longer the responsible operator of the vessel or fleet in question; or

(3) Alters any copy of a Certificate.

(d) The Director, NPFC, will advise the applicant or certificant, in writing, of the intention to deny or revoke a Certificate under paragraph (a) or (b) of this section and will state the reason for the decision. Written advice from the Director, NPFC, that an incomplete Application will be considered withdrawn unless it is completed within a stated period, is the equivalent of a denial.

(e) If the intended revocation under paragraph (b) of this section is based on failure to timely file required financial statements, data, notifications, or affidavits with the Director, NPFC, the revocation is effective 10 days after the date of the notice of intention to revoke, unless, before the effective date of the revocation, the certificant demonstrates to the satisfaction of the Director, NPFC, that the required documents were timely filed or have been filed.

(f) If the intended denial is based on paragraph (a)(1) or (a)(4) of this section, or the intended revocation is based on paragraph (b)(1) or (b)(2) of

§ 138.130

33 CFR Ch. I (7–1–13 Edition)

this section, the applicant or certificant may request, in writing, an opportunity to present information for the purpose of showing that the applicant or certificant is in compliance with the subpart. The request must be received by the Director, NPFC, within 10 days after the date of the notification of intention to deny or revoke. A Certificate subject to revocation under this paragraph remains valid until the Director, NPFC, issues a written decision revoking the Certificate.

(g) An applicant or certificant whose Certificate has been denied under paragraph (a) of this section or revoked under paragraph (b) or (c) of this section may request the Director, NPFC, to reconsider the denial or revocation. The certificant must submit a request for reconsideration, in writing, to the Director, NPFC, within 20 days of the date of the denial or revocation. The certificant must state the reasons for requesting reconsideration. The Director, NPFC, will generally issue a written decision on the request within 30 days of receipt, provided that, if the Director, NPFC, does not issue a decision within 30 days, the request for reconsideration will be deemed to have been denied, and the denial or revocation will be deemed to have been affirmed. Unless the Director, NPFC, issues a decision reversing the revocation, a revoked Certificate remains invalid. A decision by the Director, NPFC, affirming a denial or revocation, is final agency action.

§ 138.130 Fees.

(a) The Director, NPFC, will not issue or renew a Certificate until the fees set forth in paragraphs (c) and (d) of this section have been paid.

(b) For those using E-COFR, credit card payment is required. Otherwise, fees must be paid in United States currency by check, draft, or postal money order made payable to the “U.S. Coast Guard”.

(c) An applicant who submits an Application under this subpart must pay a non-refundable Application fee of \$200 for each Application (*i.e.*, individual Certificate, Fleet Certificate, or Master Certificate), except as follows:

(1) An Application for an additional (*i.e.*, supplemental) individual Certificate,

(2) A request to amend or renew an existing Certificate, or

(3) An Application submitted within 90 days following a revocation or other invalidation of a Certificate.

(d) In addition to the Application fee of \$200, an applicant must pay a certification fee of \$100 for each vessel for which a Certificate is requested. An applicant must pay the \$100 certification fee for each vessel listed in, or later added to, an Application for an individual Certificate(s). An applicant must pay the \$100 certification fee to renew or to reissue a Certificate for any reason, including, but not limited to, a vessel or operator name change.

(e) A certification fee is refunded, upon receipt of a written request, if the Application is denied or withdrawn before issuance of the Certificate. Overpayments of Application and certification fees are refunded, on request, only if the refund is for \$100 or more. However, any overpayments not refunded will be credited, for a period of 3 years from the date of receipt of the monies by the Coast Guard, for the applicant’s possible future use or transfer to another applicant under this subpart.

§ 138.140 Enforcement.

(a) Any person who fails to comply with this subpart with respect to evidence of financial responsibility under Section 1016 of OPA 90 (33 U.S.C. 2716) is subject to a civil penalty under Section 4303(a) of OPA 90 (33 U.S.C. 2716a(a)). In addition, under Section 4303(b) of OPA 90 (33 U.S.C. 2716a(b)), the Attorney General may secure such relief as may be necessary to compel compliance with the OPA 90 requirements of this subpart, including termination of operations. Further, any person who fails to comply with this subpart with respect to evidence of financial responsibility under Section 108(a) of CERCLA (42 U.S.C. 9608(a)), is subject to a Class I administrative civil penalty, a Class II administrative civil penalty or a judicial penalty under Section 109 of CERCLA (42 U.S.C. 9609).